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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/517,446	12/09/2004	Yoshihide Ueno	0020-5328PUS1	8646
2292	7590	07/20/2006	EXAMINER	
BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			FREISTEIN, ANDREW B	
			ART UNIT	PAPER NUMBER
			1626	

DATE MAILED: 07/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

DETAILED ACTION

Claims 1-16 are currently pending.

Priority

This application is a 371 of PCT/JP03/07382, filed 06/10/2003.

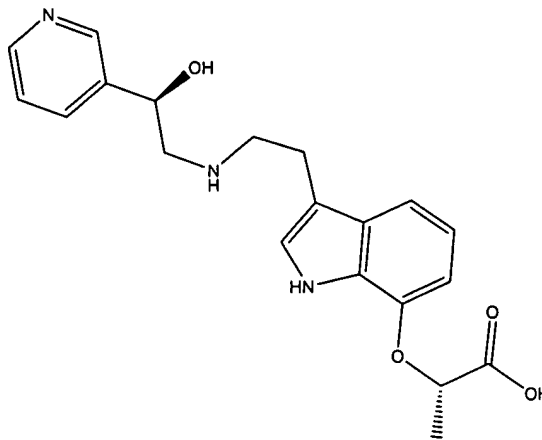
Acknowledgement is made of Applicant's claim for foreign priority under 35 U.S.C. § 119(a)-(d), by Japan patent application 2002-171400 filed on 06/12/2002 and Japan patent application 2003-027529, filed 02/04/2003.

Information Disclosure Statement

Applicant's information disclosure statements (IDS), filed on 12/09/2004 and 02/18/2005, have been considered. Please refer to Applicant's copies of the 1449 submitted herewith.

Restriction Requirement

In a response filed 06/19/2006, Applicant elected Claims 1-13 (in part) (without

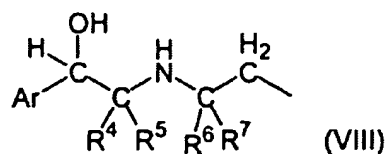


traverse) the species of Example 146,
modified Group V, labeled "Group Va", which is drawn to products of the formula (I), in
which:

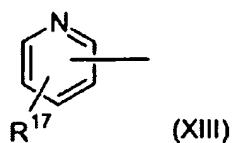
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 R^1 is X-

$R^{1c}-C(=O)NR^{1a}R^{1b}$, $X-R^{1c}-C(=O)OR^{1a}$ or $X-R^{1d}$, X is O, S or $SO_2N(R^{1c})$, R^2 is H or lower alkyl;
 Q is $C(W) = C(R^{3A})-N(R^3)$ or $C(R^{3A})=C(W)-N(R^3)$; R^3 is H or lower alkyl; W is formula (VIII)



R^4 , R^5 , R^6 and R^7 are H or lower alkyl; Ar is a group of the formula (XIII)



And R^{17} is H, halogen or a cyano group.

Furthermore, Applicant chose to refrain from electing a method of use in the response to the restriction requirement.

Examiner may reconsider to rejoin the method of use claims commensurate in scope with the product claims when and if the case is found to be in condition for allowance provided those method of use claims are free of 35 U.S.C. § 112 first and second paragraph issues (including written description, reach-through claim language and/or scope of enablement issues).

Applicants reserve their right to file a divisional application on the non-elected subject matter.

Status of the Claims

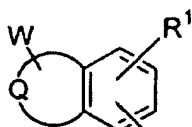
Claims 1-13 (in part) are withdrawn from further consideration by the Examiner as being drawn to non-elected inventions under 37 CFR § 1.142(b). The withdrawn

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subject matter is patentably distinct from the elected subject matter as it differs in structure and element and would require separate search considerations. In addition, a reference that anticipates one invention would not render obvious the other invention.

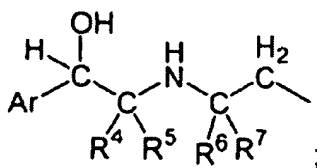
Elected and Examined Subject Matter

The scope of the invention of the elected subject matter and the examined subject matter is as follows:



Compounds of the Formula (I),

Q is $C(W)=C(R^{3A})-N(R^3)$ or $C(R^{3A})=C(W)-N(R^3)$;



W is formula (VIII),

R^{3A}, **R⁴**, **R⁵**, **R⁶**, and **R⁷** are each independently as defined in claim 1;

R¹ is $X-R^{1e}-C(=O)NR^{1a}R^{1b}$, $X-R^{1e}-C(=O)OR^{1a}$ or $X-R^{1d}$;

X is O, S or $SO_2N(R^{1c})$;

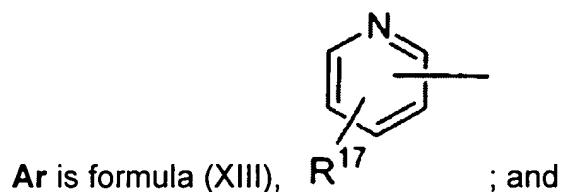
R^{1e} is as defined in claim 1;

R^{1a}, **R^{1b}** and **R^{1c}** are each independently H, lower alkyl, aralkyl, aryl or cycloalkyl, each of which is optionally substituted as defined in claim 1;

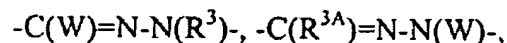
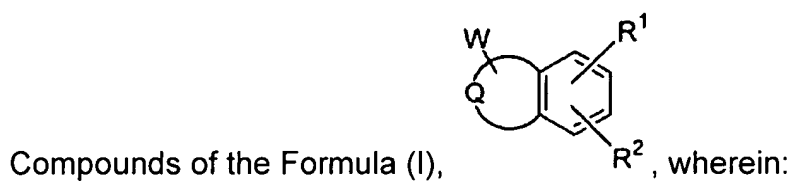
R^{1d} is H, alkyl, phenyl or a cycloalkyl group in which a CH_2 moiety is *not* replaced by O or $N(R^{1a})$, each of which is optionally substituted;

R² is H, halogen, alkyl, lower alkenyl, amino, hydroxyl, or alkoxy, each of which is optionally substituted as defined in claim 1;

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 R^3 is as defined in claim 1; R^{17} is as defined in claim 1.Non-elected and Non-examined Subject Matter

The scope of the invention of the non-elected and non-examined subject matter is as follows:



Q is $-N=C(W)-N(R^3)-$, $-N=C(R^{3A})-N(W)-$, $-C(W)=N-O-$, or $-C(W)=N-S-$;

R^1 combines with R^2 to form a methylenedioxy group;

X is $-N(R^{1c})-$, $-N(R^{1c})C(=O)-$, $-C(=O)N(R^{1c})-$, $-N(R^{1c})SO_2-$, or $-C(=O)NHSO_2-$;

R^{1a} , R^{1b} and R^{1c} are each independently a heterocyclic group, or R^{1a} and R^{1b} combine with the adjacent N atom to form a 3- to 8- membered cyclic amino group;

R^{1d} is a cycloalkyl group in which one or more CH_2 moiety is replaced by O or $N(R^{1a})$;

R^2 combines with R^1 to form a methylenedioxy group; and

Ar is formula (IX) or (X).

As a result of the election and the corresponding scope of the invention, identified supra, the remaining subject matter of Claims 1-13 is withdrawn from further

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consideration pursuant to 37 CFR 1.142(b) as being drawn to non-elected inventions.

The withdrawn compounds contain varying functional groups such as benzodioxolane, benzothiazole, benzoxazole, morpholine, etc. which are chemically recognized to differ in structure, function, and reactivity.

Therefore, the subject matter which was withdrawn from consideration as being non-elected subject matter materially differs in structure and composition from the elected/examined subject matter so that a reference which anticipates the elected/examined subject matter would not render obvious the non-elected subject matter.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, the definition of R¹ is:

optionally substituted lower alkyl group, or a group of the formula: -X-R^{1c}-C(=O)NR^{1a}R^{1b}, -X-R^{1c}-C(=O)OR^{1a} or -X-R^{1d} (where X is a direct bond or a group of the formula: -O-, -S-, -N(R^{1c})-, -N(R^{1c})C(=O)-, -C(=O)N(R^{1c})-, -N(R^{1c})SO₂-, -SO₂N(R^{1c})-, or -C(=O)NHSO₂-,

It is difficult to interpret where the definition of R¹ starts and ends and where the definition of X ends. The open parenthesis "(" after the variable -X-R^{1d} and before the

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word "where" is confusing. There is no closing parenthesis ")", which makes the definition of X or R¹ to each include

-C(=O)N(R^{1c})-, -N(R^{1c})SO₂-, -SO₂N(R^{1c})-, or -C(=O)NHSO₂-,

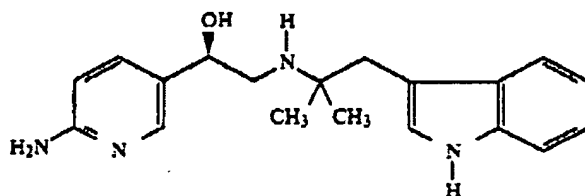
In order to obviate the objection, the closed parenthesis must be inserted to identify what the definition of X is.

Claim Objections

Claims 1-13 are objected to as being drawn to non-elected subject matter.

Closest Relevant Art

The closest relevant art is Fisher et al., US 5030640, which discloses the



compound:

(see col. 9, Ex. 3). The prior art

compound has a pyridinyl group substituted with an NH₂ group. However, the instant application has a pyridyl group substituted with H, halogen, or cyano and not NH₂.

Telephone Inquiry

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew B. Freistein whose telephone number is (571) 272-8515. The examiner can normally be reached Monday-Friday, 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph M^{re}Kane can be reached on (571) 272-0699. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

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Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).

Andrew B. Freistein
Patent Examiner, AU 1626

for 

Joseph K. McKane
Supervisory Patent Examiner, AU 1626
Date: July 11, 2006